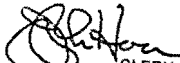


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

SEP 14 2012


CLERK

ROBERTO LAZZU RIVERA,)	Civ. 12-4088-LLP
)	
Plaintiff,)	
)	
vs.)	
)	
SHERIFF MILSTAD,)	AMENDED ORDER DISMISSING
Minnehaha County Jail;)	COMPLAINT AND GRANTING
WARDEN YOUNG,)	EXTENSION OF TIME TO FILE
Minnehaha County Jail; and)	APPEAL
C/O'S STAFF MEMBERS,)	
Minnehaha County Jail,)	
)	
Defendants.)	

The Court issued an order on August 17, 2012, dismissing Plaintiff's Eighth Amendment claims against Defendants. Docket 12. The Court dismissed Plaintiff's civil rights lawsuit on the grounds that the suit was barred by the limitations of 42 U.S.C. § 1983. *Id.* The Court now amends that order to dismiss Plaintiff's claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

Plaintiff's claims are against county employees in their official capacities. Docket 1. Consequently, the claims are construed as claims against Minnehaha County. *See Parrish v. Ball*, 594 F.3d 993, 997 (8th Cir. 2010) (stating that a suit against a public official in his or her official capacity is actually a suit against the entity for which the official is an agent). To impose § 1983 liability on a local government body, a plaintiff must demonstrate that an official policy or widespread practice of unconstitutional conduct resulted in a deprivation of the plaintiff's constitutional rights. *Monell v. Dep't of Social Servs.*, 436 U.S. 658, 690-91

(1978). Because Plaintiff has not claimed that Defendants acted pursuant to an official Minnehaha County policy in allegedly failing to protect him from threats to safety, and because leaving a dust mop and other cleaning supplies in prison units does not amount to a widespread practice of unconstitutional conduct, the Court finds that Plaintiff has failed to state a claim upon which relief may be granted. It is therefore


ORDERED that Rivera's complaint is dismissed pursuant to 28 U.S.C. § 1915 because Rivera failed to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that Rivera's Motion for Extension on Good Cause for Delay (Docket 15) is granted.

IT IS FURTHER ORDERED that Rivera will have until October 10, 2012, to file his appeal to the United States Court of Appeals for the Eighth Circuit.

Dated this 14th day of September, 2012.

BY THE COURT:



LAWRENCE L. PIERSOL
UNITED STATES DISTRICT JUDGE

ATTEST:

JOSEPH HAAS, CLERK

BY:  _____

DEPUTY